

The Decision Phase

Establishment

We will look at the legal methods by which the public will decide whether to create a library district. There are two approaches by which public library districts can be formed in Montana, by petition to the county governing body or by a resolution of the county governing body. Both ultimately require approval by voters residing within the boundaries of the proposed district.

Establishment. This information is based on MCA 22-1-702. Be advised that the steps outlined herein are of a summary nature only. Users of this handbook are encouraged to refer to MCA to determine the required legal steps necessary to form a district. A public library district may be created by using either of the following options:

Option 1 – By Petition Process:

- Step 1. Filing of a legal petition with the county clerk
- Step 2. The governing body of the county conducts an open hearing

- Step 3. If the governing body views the open hearing results as supportive of a public library district, it adopts a resolution which sets the boundaries, maximum mill levy, and number of trustees for the proposed district, and calls for an election on the question of whether to create the district.
- Step 4. An election is held.
- Step 5. If a majority of the votes cast at the election approve formation of a district, the governing body of each county with territory included in the proposed public library district shall certify that the district is formed and appoint the initial members of the district's board of trustees.

Option 2 – By County Commission Resolution:

- Step 1. A resolution of intent to form a public library district is adopted by the governing body of the county. This resolution schedules a public hearing on the question of forming the dis-

trict and sets forth the various issues that should be considered at that hearing.

- Step 2. The governing body of the county conducts an open hearing.
- Step 3. If the governing body views the open hearing results as supportive of a public library district, it adopts a resolution which sets the boundaries, maximum mill levy, and number of trustees for the proposed district, and calls for an election on the question of whether to create the district.
- Step 4. An election is held.
- Step 5. If a majority of the votes cast at the election approve formation of a district, the governing body of each county with territory included in the proposed public library district shall certify that the district is formed and appoint the initial members of the district's board of trustees.

Elections

When beginning the election, the following tasks must be done. See Title 13 of the Montana Code Annotated for specifics about elections.

- D1. Draft the petition and its contents. (if required)
- D2. Decide upon an election date.

- D3. Create a calendar and checklist of activities.
- D4. Devise and implement a public relations plan.
- D5. Carry out the petition procedure. (if required)

- D6. The county commissioners need to carry out hearing procedures on the proposed district.
- D7. The county commissioners carry out an election on whether to create the district.

Task D One: Draft the Petition and Its Contents.

The petition language and the eventual ballot language must match and be legally sound as approved by the county attorney. The petition must contain the boundaries of the proposed public library district; a map showing the boundaries; the proposed maximum property tax mill levy that could be levied on property owners within the district for the operation of the district; and the proposed number of members on the board of trustees, five or seven. The petition's text must be published in a

newspaper in accord with MCA 7-1-2121.

During the Planning Phase, you decided upon your boundaries. In this phase, you must make it legal by using appropriate terminology and providing a map. Ask your county attorney if s/he can help you create a legal description and map for the district. Or you can hire an engineer or surveying firm to provide you with both of those items.

Name the district. Choose something that describes the geographic area covered and add the words public library district to it.

List the proposed maximum property tax mill levy, which you should have figured out in the Planning Phase. During that phase, you should have also decided upon your board of trustees. How many will you have?

[Refer to *Decision Phase Form C: Petition for Election* at the end of this section.]

Task D Two: Setting the Election Date.

According to MCA 22-1-702, the election can be held in conjunction with a regular or primary election or it can be conducted by mail ballot. General elections are held the first Tuesday after the first Monday in November. Primary elections are held the first Tuesday after the first Monday in June and September.

There are financial advantages to holding an election when other elections are taking place. MCA 13-1-302 gives counties the responsibility for carrying out and paying for the election to establish

a library district. Holding an election can be expensive, so county officials may be more favorable to districting if the election is held in conjunction with other elections.

Other circumstances may affect the election date choice. Think carefully about the election date and do some research on the history of local elections. Ask yourself the following questions:

- Have there been election dates where bond issues or districting

elections have been particularly successful or unsuccessful?

- Are there dates when people are more or less likely to vote?
- Are there other bond issues or controversial items planned for any particular date?

Choosing the election date is a critical decision, as it will drive your calendar, can affect the costs of districting, and will influence other decisions during this phase of the districting project.

Task D Three: Creating an Election Calendar.

A number of preliminary steps must be taken in order for an election to be held. These steps are: collecting signatures on a petition (if a petition is required), presenting these petitions to the county commissioners, notifying the public of a hearing held by the

county commissioners, the hearing itself, issuing an order by the county commissioners, publicizing an election notice by the county clerk, and the election itself.

Each of these steps must be taken within a certain time frame, so if you

carry out any steps too early or too late, you could jeopardize the election. Create an election calendar that lists the timeline for each step in the process. [See *Decision Phase Form B: Election Calendar* at the end of this section.]

Decision Phase Form A: Possible Election Timeline for a Library District

July	Committee decides to pursue a district.
August — October	Committee looks at feasibility; decides upon services; legal boundary; mill levy; and number of trustees.
November	Draft petition language and run it by county attorney (unless county commission adopts a resolution of intent to establish a public library district without requiring a petition).
December — January	Collect signatures. Need 15% of voters to sign petition. Present petition to county clerk.
January	Clerk certifies petition.
February	Publish text of petition in local newspaper. This must be done twice and must appear at least 6 days apart.
February — March	Governing body holds open hearing to discuss proposed district. Governing body calls an election.
March — May	Committee prepares facts, fliers, and holds informational meetings to answer questions and get out the vote.
June	Election*

*** Develop comparable timelines for elections not in June by working back from the date of election.**

Task D Four: Plan Public Relations.

You completed most of this in the Planning Phase, but the election may require a special plan. Base it on the one you created for non-election public relations, but emphasize the importance of people voting on Election Day.

In accord with Montana election laws, form a Political Committee that is a totally independent entity. This committee will solicit, collect, expend, and track election contributions and expenditures. Advertisements for the election should carry the name of the committee and the name of the treasurer. You

don't want this to become an issue during your campaign, so take precautions beyond what is legally required. *Under no circumstance should you use tax dollars to support election advertising.*

Preparing to Get Out the Vote. You must prepare to get the vote on Election Day. Make up lists of supporters including names and phone numbers. Recruit volunteers to call these supporters immediately before the election or on Election Day itself to remind them to vote. Offer rides to those who cannot easily get to the polls. Obvi-

ously you should make these preparations in advance of the election itself.

Getting people to vote is important. Elections have been lost because of poor turnout in precincts. Even though people supported the effort, they forgot to vote. Creating a good list of supporters and reminding them to vote on Election Day is extremely important.

Task D Five: Circulating Petitions.

Petitions containing the name of not less than 15% of voters must be presented to the county commissioners unless that governing body chooses to initiate the district without requiring a petition. Get as many signatures as possible to avoid problems if some names are disqualified. More names also show support for the district.

Petition carriers should be active supporters for the library district. If possible ask for help from people who are property owners, have good standing in the community, and understand the issues. Hold a meeting where both the library issues and the petition process are explained to petition carriers.

Provide good written and oral instructions for petition carriers. Give the carriers these instructions to assure that the petitions will be correct and legal. Use the petition process as a public relations tool for the district.

Here are some tips and instructions for petition carriers:

- ◆ Petition carriers must be registered voters within the proposed district.
- ◆ Petition signers must be registered voters within the proposed district. If the signer isn't sure whether or not s/he is a registered voter, recommend s/he not sign the petition until s/he verifies his/her residency and voter registration.
- ◆ Signers must include their entire address, city and zip code and length of residence.
- ◆ Telephone numbers are optional. Carriers should explain this to signers and let signers know that the telephone numbers will only be used to remind the signer of the hearing and to vote at the election.
- ◆ Petition carriers should sign their own petition on one of the signer's lines as well as making the notarized signature at the bottom of the petition.
- ◆ Petition carriers should not allow a spouse to sign for the other spouse.
- ◆ Petition carriers should not promise anything about tax levies. Refer question about district financing to the Planning Group's financial committee.
- ◆ Petition carriers should inform signers of the hearing process and ask them to attend.
- ◆ Petition carriers must sign the bottom of the petition in the presence of a notary public and they must have their signature notarized. This is extremely important, as *all names will be invalidated if the petition is not notarized*. [See *Decision Phase Form C: Petition for Election* for the language required for validation of signatures.]
- ◆ Turn in petitions by a certain date.
- ◆ Have petition carriers turn in the petition to the district project coordinator or group rather than the county clerk. The petitions can then be checked for flaws, etc. before they are officially turned in.
- ◆ Once you have presented the petition to the county clerk, s/he has 15 days to either reject the petition if it is insufficient or certify that the petition is sufficient.

Task D Six: The Hearing with the County Commissioners.

You should have already discussed the hearing process and a timetable with the clerk and commissioners.

Hearing Date. The county commissioners are required by law to set a time and place for a hearing, once the certified petitions have been presented. The hearing can be part of a regular county commission meeting.

Hearing Itself. This is an opportunity for the public to speak about their concerns with the districting project. MCA 22-1-702 requires the commissioners to hear testimony about:

- ◆ whether a district should be created
- ◆ the proposed boundary, the property tax mill levy, and the number of members of the board of trustees

- ◆ any other matters relating to the proposed district

Hearings may be formal, where speakers must sign up at the beginning of the meeting, and each person is only allowed to speak once. Or they may be informal, where people are allowed to speak back and forth on the issue. Find out how your county commissioners normally conduct hearings, and prepare accordingly.

Task D Six: The Hearing with the County Commissioners. (cont.)

People who oppose the district will attend and speak at the hearing, so have proponents of the district speak at the hearing. Here are some hints about how to make a good impression:

- ◆ Ask community leaders to be present and speak in favor of the district.
- ◆ Put together a team of speakers to address different issues.
- ◆ Ask people to come to the hearing, even if they do not wish to speak.
- ◆ Anticipate the arguments that will be made against the district and plan on answering them.
- ◆ Ask that your most knowledgeable speakers be allowed to present last, if people are only

allowed to talk once. This lets them answer any arguments against the district.

- ◆ Hold a practice session a week before the hearing. Have all those who plan to speak give their presentation. Have a devil's advocate speak against the formation of a district.
- After the hearing, county commissioners have two options:
- ◆ Adopt a resolution which sets the boundaries of the district, the maximum mill levy, and the number of members on the board of trustees; and schedules an election on the question, or,
 - ◆ Decline to move forward on the district if they are not convinced by the results of the hearing that the issues surrounding the pro-

posed district have been satisfactorily addressed.

Existing Public Libraries and the Hearing. Public libraries not interested in consolidating with the district should indicate so as part of the public hearing process. Those libraries that are interested in consolidating with the district should talk to their governing body. The governing body of the city or county needs to hold a hearing to discuss whether or not the library should be included in the district. If the governing body determines that the library should be included in the district, it needs to adopt a resolution following the public hearing. See MCA 22-1-705 for more information.

Task D Seven: Conducting the Election.

The county must carry out and pay for the election procedures. According to MCA 22-1-702, the election must be conducted in accordance with Title 13 of the Montana Code Annotated. Only qualified electors residing within the proposed public library district may vote. According to MCA 22-1-703, the ballot must contain the following wording:

- _____ FOR the creation of a public library district that may levy not more than _____ mills of property tax for the operation of the district.
- _____ AGAINST the creation of a public library district.

Stay in touch with the county clerk through the election process and monitor the various election processes that need to be completed. [See *Decision Phase Form D: Sample Ballot for Election* for sample ballot language.]

Getting Out the Vote. Make up lists of supporters including names and phone numbers. Recruit volunteers to call these supporters immediately before the election or on Election Day itself to remind them to vote. Offer rides to those who cannot easily get to the polls. Obviously you should make these preparations in advance of the election itself.

Results Certification, Canvassing, and the Creation Order. If the majority of voters favor the district formation, the county commissioners must certify that the district is formed within 10 days. The county commissioners then have 30 days after the certification to appoint initial members of the district's board of trustees. Refer to MCA 22-1-704 for more information.

After District Formation. After the district is formed, cities with an agreement from the district trustees pass resolutions to have their existing libraries consolidated into the district.

Decision Phase Form B: Election Calendar

<u>Activity</u>	<u>Date</u>
Legal description and map finished	
Petition Drive (if required)	
Petitions presented to County Clerk who must reject or certify signatures within 15 days	
First printing of petition text in local newspaper, etc.	
Second printing of petition text in local newspaper, etc. (must wait at least 6 days)	
County Commissioners hold a hearing	
County Commissioners order an election	
First Notice of Election	
Second Notice of Election	
Election	

Decision Phase Form C: Petition for Election

(Sample petition language from the Lake County efforts to form a library district)

PETITION

Persons signing this Petition request that the Lake County Commissioners call for an election on the question of whether to create a Public Library District as described below. The election would be held in conjunction with the June 8, 2004 primary election.

The Public Library District boundaries will encompass all of Lake County. Please see attached map for the boundaries. (Map is reproduced as Section III-A.)

Subject to MCA 15-10-420, the proposed maximum property tax mill levy that could be levied on property owners for the operation of this proposed Public Library District would be 10.07 mills. This mill levy will amount to \$22.80 per year for a property with a market value of \$100,000.00 and \$45.58 per year for a property with a market value of \$200,000.00 (2004 values/mill levies)

A seven member Board of Trustees would direct the Public Library District. These trustees would be elected from seven districts within the Public Library District and serve without pay. The Lake County Commissioners will create these districts.

Creating this Public Library District will stabilize funding for and improve library services, including the full-timer services of a Bookmobile, for the residents of Lake County.

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Lake County voter is subject to a \$500 fine, 6 months in jail, or both.

All printed names MUST be legible.

Decision Phase Form C: Sample Petition (continued)

*Sample language for petition carrier to sign in front of notary
based upon MCA 13-27-302.*

I, (name of person who is the signature gatherer), swear that I gathered or assisted in gathering the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

(date on which the first signature was gathered)

(Signature of petition signature gatherer)

(Address of petition signature gatherer)

Subscribed and sworn to before me this ____ day of _____, 20____.

Seal _____
(Person authorized to take oaths)

(Title or notarial information)

Decision Phase Form D: Sample Ballot for Election

_____ County

_____ Public Library District

[Election Date]

INSTRUCTIONS: Mark an "X" in the box of your choice.

STATEMENT OF PURPOSE

The purpose of the proposed _____ Public Library District is to implement the declared policy of the State of Montana in regard to library districts in Montana Code 22-1-702, to establish public library service for all the people in the proposed district within _____ County, to make more adequate provision for an informed electorate by integrating, extending, and adding to existing library services and resources in such manner that public library service may be available to children in their formative years and to adults for their continuing education.

_____ FOR the creation of a public library district that may levy not more than _____ mills of property tax for the operation of the district.

_____ AGAINST the creation of a public library district.